UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,684	03/07/2001	Albert D. Baker	23-2	5046

			EXAMINER

7590   03/09/2005

Ryan, Mason & Lewis, LLP
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EXAMINER
KHUONG, LEE T

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 October 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *8/23/2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) ☐ Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____.	6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.   Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al.

(US 6,421,346) hereinafter is referred as Itoh in view of Northcutt et al. (US 6,678,741)

hereinafter is referred as Northcutt.

Regarding claims 1 and 8, Itoh teaches a method and system for configuring a first

device of a communication system (Fig. 1, 50, *ATM switch*), the method comprising the steps of:

receiving at least one message in the first device (Fig. 1, 50, *ATM switch*) from a second device

(Fig. 1, *terminal A*) of the communication system; determining if the protocol version of the at

least one message is the same as a known protocol version associated with the second device in a

memory of the first device (see col. 4, lines 6-10, lines 57-64, *the ATM switch 50 receives a message from the terminal A. A receiving message analyzer 51 of the ATM switch 50 determines the UNI version of the terminal A exists in an UNI identification information database 63 of the ATM switch 50*); determining if the protocol version of the at least one message is a known protocol version when the protocol version of the at least one message is not the same (see col. 4, lines 57-64, *the analyzer 51 determines if the UNI version of the terminal A is known in its database 63-2*). Itoh also teaches a memory (Fig. 1, 60, *memory of the ATM switch*) that is coupled to at least one processor (Fig. 1, 51, a *receiving message analyzer*).

Itoth does not expressly teach updating the protocol version associated with the second device when the protocol version of the at least one message is known.

Northcutt teaches updating the protocol version associated with the second device (Fig. 1, 102, *HID/Human Interface Devices*) when the protocol version of the at least one message is known (see Fig. 3, S4, col. 5, lines 45-50, at step S4, *if the firmware versions of the central server and the HIDs are not the same then update the firmware in the HIDs*).

It would have been obvious to one of ordinary skill in the art, at the time invention was made, to employ the updating of firmware version as taught by Northcutt into Itoth to arrive the claimed invention as specified in claims 1 and 8.

The suggestion/motivation for doing so would have been to provide a same common protocol in order for the devices to communicate with each other (see col. 1, lines 32-42).

Itoh does not expressly teach processing the at least one message at the first device when the protocol version of the at least one message is the same.

However, Itoth does teach that the ATM switch 50 can continue processing a call even when an information element error which does not pose an obstacle to a connection between users with differing UNI version.

It would have been obvious at the time the invention was made that the ATM switch 50 would be able to process the communicating message from the terminal A to a terminal B if they both have the same UNI version.

The suggestion/motivation for doing so would have been to provide an ATM switch capable of interworking between different UNIs in an ATM network (see col. 2, lines 30-32).

Regarding claims 2 and 9, Itoh teaches the method and system of claims 1 and 8, wherein the first device comprises a switch of the communication system (see figure 1, part 50, col. 3, lines 42 – 50, *ATM switch*).

Regarding claims 3 and 10, Itoh teaches the method and system of claims 1 and 8, wherein the second device comprises a customer premises equipment (CPE) device of the communication system (see figure 1, *Terminal A*).

Regarding claims 4 and 11, Itoh teaches the method and system of claims 1 and 8, wherein the protocol comprises an asynchronous transfer mode (ATM) user-network interface (UNI) protocol (see col. 4, lines 11 – 18, *ATM-UNI protocol*).

Regarding claims 5 and 12, Itoh teaches the method and system of claims 1 and 8,

wherein the at least one message analyzed to determine the particular version of the protocol

comprises a signaling channel message received over a signaling channel established between

the first and second devices (see col. 6, lines 15 – 28, *call control processor 52 assigns Virtual*

path and Virtual Channel).

Regarding claims 6 and 13, Itoh teaches the method and system of claims 1 and 8,

wherein the step of determining if a protocol version of the at least one message is the same as a

protocol version associated with the second device in a memory of the first device further

comprises the step of determining if an information element identifier extracted from the at least

one message is a valid information element identifier for the protocol version associated with the

second device in a memory of the first device (see col. 4, lines 6 – 10, lines 57-64, *ATM switch*

has a memory 60 stores all possible UNI identification information 63).

Regarding claim 7, Itoh teaches the method of claim 1 wherein a call processing

function of the first device is adjusted so as to provide a feature associated with the particular

version of the protocol (see col. 6, lines 13-44).

Regarding claims 15 and 16, Itoh teaches a method and system for configuring a first

device of a communication system (Fig. 1, 50, *ATM switch*), the method comprising the steps of:

receiving at least one message in the first device (Fig. 1, 50, *ATM switch*) from a second device

(Fig. 1, *terminal A*) of the communication system; determining if the protocol version of the at

least one message is the same as a known protocol version associated with the second device in a

memory of the first device (see col. 4, lines 6-10, lines 57-64, *the ATM switch 50 receives a*

message from the terminal A. A receiving message analyzer 51 of the ATM switch 50

determines the UNI version of the terminal A exists in an UNI identification information

database 63 of the ATM switch 50); determining if the protocol version of the at least one

message is a known protocol version when the protocol version of the at least one message is not

the same (see col. 4, lines 57-64, *the analyzer 51 determines if the UNI version of the terminal*

A is known in its database 63-2). Itoh also teaches a memory (Fig. 1, 60, *memory of the ATM*

switch) that is coupled to at least one processor (Fig. 1, 51, a *receiving message analyzer*).

Itoth does not expressly teach updating the protocol version associated with the second

device when the protocol version of the at least one message is known.

Northcutt teaches updating the protocol version associated with the second device (Fig. 1,

102, *HID/Human Interface Devices*) when the protocol version of the at least one message is

known (see Fig. 3, S4, col. 5, lines 45-50, at step S4, *if the firmware versions of the central*

server and the HIDs are not the same then update the firmware in the HIDs).

It would have been obvious to one of ordinary skill in the art, at the time invention was

made, to employ the updating of firmware version as taught by Northcutt into Itoth to arrive the

claimed invention as specified in claims 15 and 16.

The suggestion/motivation for doing so would have been to provide a same common

protocol in order for the devices to communicate with each other (see col. 1, lines 32-42).

Itoh does not expressly teach processing the at least one message at the first device when

the protocol version of the at least one message is the same.

However, Itoth does teach that the ATM switch 50 can continue processing a call even when an information element error which does not pose an obstacle to a connection between users with differing UNI version.

It would have been obvious at the time the invention was made, the ATM switch 50 would be able to process the communicating message from the terminal A to a terminal B if they both have the same UNI version.

The suggestion/motivation for doing so would have been to provide an ATM switch capable of interworking between different UNIs in an ATM network (see col. 2, lines 30-32).

Response to Arguments

4.   Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7.   The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure.

Wells (US 5,949,782); Sasagawa (US 6,308,217); Han, (US 6,009,097), are cited to show an apparatus and a method of Automatic Protocol Version Detection and Call Processing Reconfiguration In A Communication System, which is considered pertinent to the claimed invention.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Khuong whose telephone number is 571-272-3157. The examiner can normally be reached on 9AM - 5PM.
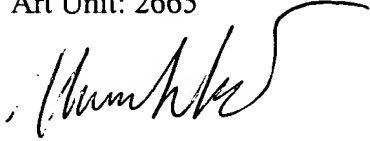
9.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2665
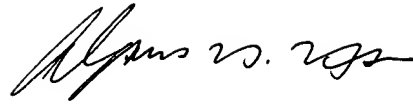
Lee T. Khuong
Examiner
Art Unit 2665